

**Bureau of Land Management
Winnemucca District Office
Categorical Exclusion**

[X]HRFO(1000)	[]BRFO(3000)-[]NCA(3500)	[]District (0000)
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CX#: DOI-BLM-NV-W010-2012-0038 -CX	Date:
Regulatory Authority (CFR or Law): 2800	Lease / Case File / Serial #: N-90775
BLM Manual: 2800	
Subject Function Code: 2810	
Project Lead Preliminary Review: Yes	
Is the project located within a Sage Grouse Preliminary Priority Habitat and/or Preliminary General Habitat? No	

1. BLM District Office: Winnemucca District Office
2. Name of Project Lead: Julie McKinnon
3. Project Title: John Sherrill Private Property Access Road ROW
4. Applicant: John Sherrill
5. Project Description: (briefly describe who, what, when, where, why, how)

Mr. Sherrill is proposing to acquire access to his private property located in the Ten Mile Hills area; this area is within the checkerboard lands. Mr. Sherrill would need corner crossings across the public lands to provide legal access to his private property. These corner crossings would be new but consist of very small disturbance areas over all. Each proposed corner crossing would encompass 451 sq. ft. of public land for a total of 902 sq. ft. for a total acreage of 0.02 acres.

These corner crossings would be necessary for the private property land owner to provide legal access to their property and to show Humboldt County that legal access across the public land has been acquired which would allow him to pursue the necessary building permits for his residence.

Mr. Sherrill would use a County road and an existing road on private land as access to the proposed corner crossing.

Project dimensions (length, width, height, depth): 451 x 2 = 902 Acreage: 0.02

Will the project result in new surface disturbance? Yes X No _____

Has the project area been previously disturbed? Yes_____No ☒ N/A_____. If yes, what percent of the project area has been disturbed? _____% . If only part of the project area has been disturbed, indicate disturbed area on map. Describe disturbance (and attach photo of disturbed area if you have one):

6. Legal Description: T. 36 N., R. 36 E., sec. 24, SWSWSWSW;
sec. 26, NENENENE.

USGS 24k Quad name: Rose Creek

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100k map name: Winnemucca

Land Status: BLM X Private_____ Other_____

7. Create PDFs of 1:24000 Project Location Map and 1:100,000 general vicinity map. (See S:\NEPA\NEPA_2012\NEPA 2012 Templates\Proposed Action\CX Proposed Action Form and Instructions

Part I: Plan Conformance Review

The proposed Action is subject to the:

☒ Paradise-Denio Management Framework Plan

Although there is no specific management action pertaining to rights-of-way in the Paradise-Denio MFP, this action is clearly consistent with the MFP's objectives, terms, conditions, and decisions. FLPMA provides for authorizations of rights-of-way across public lands.

☐ Sonoma-Gerlach Management Framework Plan

☐ Black Rock Desert-High Rock Canyon Emigrant Trails NCA and Associated Wilderness and Other Contiguous Lands in Nevada RMP

(The Proposed Action has been reviewed for conformance with this plan (43 CFR 1610.5, BLM Manual 1617.3).

Part II: NEPA Review

Categorical Exclusion Review: This Proposed Action qualifies as a categorical exclusion under:

☐ 43 CFR 46.210 DOI Implementation of NEPA of 1969, Listing of Departmental Categorical Exclusions *(formerly 516 DM2 Appendix I)* (Define Exclusion – see lists available at: [S:\NEPA_2010\NEPA Templates 2010\CX\CX Lists\ DOI CXs](#))

☒ 516 DM11.9, (BLM) E. Realty #17: (Grant of a short rights-of-way for utility service or terminal access roads to an individual residence, outbuilding, or water well.)

ESA and BLM Sensitive Status Species

Evaluation Criteria	Yes	No
1. Are species listed under the Endangered Species Act likely to occur in the project area? If yes, list the species in Table 1 below. Verify with USFWS or use approved list.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Are BLM NV Sensitive Species, based upon the current IM, likely to occur in the project area? If yes, list the species in the Table 1 below.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Could the proposed action result in “take” under the Migratory Bird Treaty Act? If yes, attach appropriate mitigation measures.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Table 1. Special Status Species that may occur in the project area:

ESA	BLM	Common (Scientific) Name	May Be Affected?	Mitigation for BLM Sensitive Species (Attach ESA Section 7 Compliance to Form)
<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	

<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	

Table 2 Migratory Bird Treaty Act Consideration

Potential MBTA Species w/in the Project Area Common (<i>Scientific</i>) Name	May Be Affected?	Proposed Mitigation
black-throated sparrow (<i>Amphispiza bilineata</i>), Brewer's blackbird (<i>Euphagus cyanocephalus</i>), Brewer's sparrow (<i>Spizella breweri</i>), burrowing owl (<i>Athene cunicularia</i>), canyon wren (<i>Catherpes mexicanus</i>), gray flycatcher (<i>Empidonax wrightii</i>), green-tailed towhee (<i>Pipilo chlorurus</i>), loggerhead shrike (<i>Lanius ludovicianus</i>), rock wren (<i>Salpinctes obsoletus</i>), sage sparrow (<i>Amphispiza belli</i>), sage thrasher (<i>Oreoscoptes montanus</i>), western meadowlark (<i>Sturnella neglecta</i>), and vesper sparrow (<i>Poocetes gramineus</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	In order to avoid potential impacts to breeding migratory birds, a careful visual inspection of habitat in the project area should be made prior to any surface disturbance (including cross-country routes) during the avian breeding season (March 1st through August 31st). Nesting activities may include eggs or young present in nest, adult behavioral displays (e.g. dive-bombing, faking injury, won't leave the area, agitated calling, etc.). If active nests are located, the BLM biologist must be notified immediately and appropriate protection measures which may include avoidance or restriction of activities will be established.
	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No	

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	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No	

The Proposed Action has been reviewed to determine if any exceptions described in 43 CFR 46.215 Categorical Exclusions: Extraordinary Circumstances apply. (See attached page)

Mitigation Measures/Remarks: In order to avoid potential impacts to breeding migratory birds, a careful visual inspection of habitat in the project area should be made prior to any surface disturbance (including cross-country routes) during the avian breeding season (March 1st through August 31st). Nesting activities may include eggs or young present in nest, adult behavioral displays (e.g. dive-bombing, faking injury, won't leave the area, agitated calling, etc.). If active nests are located, the BLM biologist must be notified immediately and appropriate protection measures which may include avoidance or restriction of activities will be established.

Part III: DECISION: I have reviewed this plan conformance and NEPA compliance record and have determined that the proposed project is in conformance with the approved land use plan and that no other environmental analysis is required. Project authorization is subject to mitigation measures identified above.

Remarks reserved for authorized officer:

Authorized Official____/s/ Michael Truden_____ Date: __6/20/2012_____
(Signature)

Administrative Review or Appeal Opportunities

A person who wishes to appeal to the Interior Board of Land Appeals must do so under 43 CFR 4.411 and must file in the office of the officer who made the decision (not the board), in writing to Michael Truden, Field Manager, Humboldt River , Field Office, 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445. A person served with the decision being appealed must transmit the notice of appeal in time to be filed in the office where it is required to be filed within thirty (30) days after the date of service.

The notice of appeal must give the serial number or other identification of the case and may include a statement of reasons for the appeal, a statement of standing if required by § 4.412(b), and any arguments

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the appellant wishes to make. Form 1842-1 provides additional information regarding filing an appeal.

No extension of time will be granted for filing a notice of appeal. If a notice of appeal is filed after the grace period provided in §4.401(a), the notice of appeal will not be considered and the case will be closed by the officer from whose decision the appeal is taken. If the appeal is filed during the grace period provided in §4.401(a) and the delay in filing is not waived, as provided in that section, the notice of appeal will not be considered and the appeal will be dismissed by the Board.

The appellant shall serve a copy of the notice of appeal and any statements of reason, written arguments, or briefs under §4.413 on each adverse party named in the decision from which the appeal is taken and on the Office of the Solicitor, Pacific Southwest Regional Solicitor, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, California 95825-1890. Service must be accompanied by personally serving a copy to the party or by sending the document by registered or certified mail, return receipt requested, to the address of record in the bureau, no later than 15 days after filing the document.

In addition, within thirty (30) days of receipt of this decision you have the right to file a petition for a stay together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties specified above.

Pursuant to 43 CFR 4.47I(c), a petition for stay, if filed, must show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.

43 CFR 4.471 (d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).